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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

Access Charge Reform for Incumbent  
Local Exchange Carriers Subject To  
Rate-Of-Return Regulation

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CC Docket No. 98-77

REPLY COMMENTS OF  
VIRGIN ISLANDS TELEPHONE CORPORATION

The Virgin Islands Telephone Corporation ("Vitelco") submits this reply in response to recent comments filed on the Federal Communications Commission's ("Commission" or "FCC") Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup> First, an overwhelming majority of the commenters agree with Vitelco that no action should be taken at this time to reform the access structure for rate-of-return incumbent local exchange carriers. Second, the Commission should deny AT&T's request for immediate access charge modifications because such action is not supported by the record before the Commission and is contrary to the public interest.

<sup>1</sup> Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, CC Docket No. 98-77, FCC 98-101 (rel. June 4, 1998) (Notice of Proposed Rulemaking) ("Notice").

**I. THERE IS OVERWHELMING SUPPORT IN THE RECORD FOR THE COMMISSION TO AVOID ENACTING IMMEDIATE CHANGES IN THE RATE-OF-RETURN ACCESS CHARGE STRUCTURE**

The record clearly indicates that the Commission should wait before implementing sweeping changes to the access charge structure for rate-of-return ("ROR") incumbent local exchange carriers ("ILECs"). Vitelco along with several other entities demonstrated that Commission action, at this time, would be premature and inequitable.<sup>2</sup>

The National Exchange Carrier Association, Inc. ("NECA") argues that the Commission should be patient because "[s]ubstantial uncertainty exists" with respect to the effects of both universal service and separations revisions on rural companies.<sup>3</sup> Similarly, John Staurulakis, Inc. ("JSI"), a consulting firm for ILECs, indicated that the "most prudent course" for the Commission would be to "refrain from specific action affecting rate-of-return LECs until it has considered and implemented comprehensive Universal Service reform."<sup>4</sup> NECA, JSI, and other parties seek greater certainty concerning universal service before access charge reform is implemented because access charge reform and universal service reform are inextricably linked. To

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<sup>2</sup> See e.g., Fred Williamson & Associates, Inc. Comments, CC Docket 98-77, at 3-4 (filed Aug. 17, 1998) (arguing that the FCC should move with great caution and careful consideration because "[rural carriers] do not ... have sufficient margins to withstand the application of experimental procedures in access price recovery."); see also TDS Telecommunications Corporation Comments at 2 ("The Commission cannot responsibly evaluate, let alone decide, critically important access reform issues for [ROR] companies while universal service issues remain unsettled.").

<sup>3</sup> See NECA Comments at 1.

<sup>4</sup> JSI Comments at 2.

the extent the Commission engages in access charge reform without adequately considering universal service reform it will engage in a "shell game" in which the pieces are continually shifted and changed without ever successfully finding the solution to the ultimate issue: ensuring universal service. The Commission should wait to implement access reform for ROR carriers until it has examined the consequences of access charge reform on price cap carriers and established new universal service rules for non price cap carriers, currently scheduled no earlier than 2001.

Notably, the commenters urging the Commission to avoid hasty action are not exclusively ROR carriers. In fact, MCI Telecommunications Corp. ("MCI") argued that the Commission should not tackle ROR reform at this time. Essentially, MCI characterized it as a matter of priorities: "[t]he Commission should revisit access reform for price cap carriers and complete universal service reform before diverting its limited resources to access reform of rate-of-return carriers."<sup>5</sup>

In addition to concerns about premature Commission action, the record demonstrates that revisions now would negatively impact ROR carriers in violation of the competitive spirit of the 1996 Act by unreasonably raising rates for customers in ROR areas. The proposed actions would put ROR carriers at a competitive disadvantage because they would result in immediate price hikes for such carriers. NECA estimates that "using the price cap carrier SLC and PICC rules would result in a ROR SLC for multi-line businesses that immediately reaches the . . . cap."<sup>6</sup> The

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<sup>5</sup> MCI Comments at 4.

<sup>6</sup> NECA Comments at 1-2.

National Rural Telecom Association and the National Telephone Cooperative Association concurs, arguing that raising the caps on the SLC and the PICC would raise rates "immediately to the price cap LEC ceilings."<sup>7</sup> Home Telephone Company, Inc., suggested that this phenomenon would result in rates that are not comparable for customers nationwide.<sup>8</sup> The Commission should therefore avoid any actions that would jeopardize the principle of rate comparability. Actions such as the transfer of TIC revenue requirements or line-side port costs to the common line category must not occur because it would necessarily increase NECA CCL charges, even while price cap companies' CCL rate moves toward zero.<sup>9</sup>

If the Commission was to make any changes, they should not be abrupt. Rather, the Commission should consider taking a number of actions that will ensure a smooth transition for its reform efforts. NECA offers several worthwhile proposals that would avoid the negative impact that uniform nationwide cost recovery would have on universal service. NECA recommends that the Commission either: (1) determine that these carriers should continue to recover substantial portions of common line costs through CCL rates and leave SLC caps unchanged (2) consider using an average of price cap carrier SLC and PICC charges to "cap" ROR SLC and PICC charges; or (3) consider approaches that would allow ROR carriers to increase SLCs and incur PICCs based on evaluation of individual circumstances. Each of these proposals would avoid

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<sup>7</sup> National Rural Telecom Association and the National Telephone Cooperative Association Comments at 18.

<sup>8</sup> Home Telephone Company, Inc. Comments at 3.

<sup>9</sup> See NECA Comments at 2.

the detrimental consequences to universal service that other reform efforts do not address.<sup>10</sup>

## **II. THE COMMISSION SHOULD REJECT AT&T'S ASSERTIONS FOR IMMEDIATE REFORMATION OF THE ACCESS CHARGE RULES BECAUSE SUCH ACTION WOULD HARM ROR CARRIERS**

AT&T not only asks the Commission to make the rate structures of ROR LECs identical to those of the price cap LECs, but also requires immediate and massive declines in those rates.<sup>11</sup> As explained fully below, AT&T's proposal to peg ROR rates to price cap rates will undermine ROR carrier's service quality and availability and are bordering on the irresponsible.

AT&T suggests that ROR LECs charge "excessive" rates and proposes that the Commission initiate a proceeding to reduce the rate level for ROR LECs.<sup>12</sup> To the extent that disparities remain after such action, AT&T suggests that the FCC eliminate them by requiring the ROR LECs to peg their traffic-sensitive rates to the nationwide average of the price cap LECs' traffic-sensitive rates.<sup>13</sup> The ROR LECs would then be permitted to recover from the Universal Service Fund any difference between their legitimate revenue requirement and the revenues from their access rates. AT&T's suggestion should be rejected for two reasons.

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<sup>10</sup> In addition, Vitelco supports NECA's assertion that, regardless of the Commission's ultimate approach to reform, all residential SLCs should remain at the current level of \$3.50 per line. *See* NECA Comments at 5. Doing so would lessen the administration burden on small carriers in implementing the Commission's price cap rules.

<sup>11</sup> *See also* General Communications, Inc. Comments at 3.

<sup>12</sup> AT&T Comments at 4-8.

<sup>13</sup> *Id.*

First, AT&T's proposal incorrectly assumes that ROR LECs have excessive rates without producing a shred of evidence to back up its assertion. Rather, ROR carriers are often rural and small carriers that suffer from higher cost operating environments. As explained in its initial comments, Vitelco has substantially greater costs of doing business than price cap carriers,<sup>14</sup> with a much smaller customer base in which to spread cost increases.<sup>15</sup> Vitelco, in particular, faces both economic and geographic barriers that dramatically increase costs.<sup>16</sup> AT&T just breezes by the facts when it makes the unfounded and unsupported suggestion that higher rates are *per se* the result of excessive prices. Even the Commission has observed that ROR rates are naturally higher than those of their price cap brethren.<sup>17</sup>

Secondly, pegging ROR rates to price cap rates will place new and unnecessary burdens on the universal service high cost fund. As noted previously by Vitelco, universal service in ROR areas, especially in the U.S. Virgin Islands, face special challenges.<sup>18</sup> AT&T's proposal would require additional costs to be funded by the universal service fund. However, it is unlikely that ROR carriers can support these costs. Vitelco estimates that the proposed 25/75% federal state funding split will result

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<sup>14</sup> See Vitelco Comments at 3-5.

<sup>15</sup> Vitelco Comments at 3.

<sup>16</sup> See Vitelco Comments at 4.

<sup>17</sup> The Commission itself has acknowledged this fact. See Notice ¶ 3.

<sup>18</sup> See *e.g.*, Vitelco Comments at 4.

in a forty percent increase in local rates.<sup>19</sup> Additional increases above and beyond those already contemplated will reduce subscribership which, as the Commission is aware, is already below the national average.<sup>20</sup> Therefore, due to the negative repercussions this proposal would have on ROR carriers, the Commission should reject this proposal.

### III. THE COMMISSION SHOULD NOT PHASE OUT THE TIC

As an alternative to a reduction in ROR rate levels and the pegging of ROR rates to price cap rates, AT&T suggests that the Commission eliminate the TIC in three years.<sup>21</sup> What's more, the company also requests that the FCC should determine the most appropriate method for eliminating the TIC.<sup>22</sup> AT&T argues that to the extent that elimination of the TIC is accomplished over time, any reductions in TIC revenues should be targeted first to the originating TIC until it is eliminated, and then to the terminating TIC.

Vitelco opposes these arguments. First, as stated in its comments, the TIC recovers real costs of ROR carriers and, therefore, the FCC can not eliminate that charge. Second, three years is an unreasonably short period of time because access reform should not be implemented before universal service reform, which is not currently scheduled to begin until 2001 at the earliest. Third, the FCC should not

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<sup>19</sup> See Vitelco Comments, CC Docket No. 96-45 at 4 (filed May 15, 1998).

<sup>20</sup> *Id.* at 6.

<sup>21</sup> AT&T Comments at 8 fn.8.

<sup>22</sup> AT&T Comments at 12.

target greater TIC reductions to terminating minutes because this will guarantee inadequate cost recovery because small and rural carriers have relatively less terminating than originating minutes. Therefore, the FCC should reject AT&T's TIC proposals.

#### IV. CONCLUSION

For all the foregoing reasons, Vitelco urges the Commission to move forward cautiously with access charge reform for ROR carriers only after it has developed a sufficient record of success with price cap carriers and has properly evaluated the impact of such reforms on universal service.

Respectfully submitted,

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